Hearing set July 22 on 751 South lawsuit

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Body

A court ***hearing*** ***July*** ***22*** could put an end to a ***lawsuit*** over the proposed ***751*** ***South*** development.

A group of property owners near the ***751*** ***South*** site are suing Durham County over a ruling that their protest petition, which could have blocked a rezoning for the project last year, had been invalidated.

Attorneys for Durham County and ***Southern*** Durham Development have filed a motion for summary judgment, acknowledging they do not contest facts in the suit and request that it be considered only as a matter of law, said Bryan Wardell, a lawyer with the County Attorney's office.

The ***hearing*** is scheduled at 10 a.m. at the Durham County Judicial Building, said Cal Cunningham, a Winston-Salem attorney and former state Senator who is representing ***Southern*** Durham Development.

Cunningham declined to discuss details of the case, but Lewis Cheek, a Durham attorney who has represented ***Southern*** Durham Development in other matters, said, "It could determine the outcome."

Dhamian Blue, the Raleigh attorney for the plaintiffs, could not be reached for comment.

A county motion to dismiss the property owners' ***lawsuit*** was denied in March. The suit appeals a decision by County Attorney Lowell Siler.

Opponents of the ***751*** ***South*** rezoning filed a petition, ruled valid by the Durham City-County Planning Department, that would have required a 4-1 "supermajority" county commissioners' vote to approve the rezoning.

Before the commissioners' vote, ***Southern*** Durham Development donated a strip of land to the state along N.C. ***751***. The donation moved the company's property line beyond the area affected by the petition. After learning that the donation affected a local political issue, the N.C. Department of Transportation revoked its acceptance.

Siler ruled that the state had no authority to do so, although several legal authorities, including the state Attorney General's office, advised otherwise.

If completed, ***751*** ***South*** could include up to 1,300 residences, 300,000 square feet each of office and retail space and 150,000 square feet of "civic floor area" on N.C. ***751*** near the Chatham County line.

The project has been an object of fierce contention for three years, over its possible environmental effects and the process by which it has been maneuvered through planning, review and approval processes.

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